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RemarksA. Claim amendments

All of the claims have been canceled except independent claim 6.

Independent claim 6 has been amended to be more concise. Basis for the amendments to claim 6 are found in the previously presented claim 6 itself.

B. The Office Action of February 10, 2009

On page 2 of the Office Action, claims 7 and 10 were rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fukumoto et al. (JP 9-12855).

Claims 7 and 10 have been canceled.

On page 2 of the Office Action, claims 6-11 and 13-14 were rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kuramoto et al. (JP 2003-82045).

Claims 7-11 and 13-14 have been canceled.

On page 3 of the Office Action, it was indicated that claim 12 is allowable. This is very much appreciated. However, to focus this case upon only one claim, claim 12 has been canceled.

C. Applicant's discussionC.1. The Office Action of January 5, 2009

The Office Action of January 5, 2009 provides as follows:

As for the rejections over Kuramoto, Applicant makes the following comment regarding the teachings of paragraph [0054]:

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Thus, paragraph [0054] of Kuramoto discloses that a radical polymerization is carried out in the presence of a surfactant.

and then concludes:

Hence, Kuramoto, like Fukumoto, does not disclose or suggest that the monomer itself is previously emulsified before impregnation and before polymerization.

Respectfully, the Examiner does not see how the latter conclusion may be drawn from the former observation. In the Examiner's estimation, the skilled artisan, upon reading paragraph [0054] would appreciate that the surfactant can be added to (i) the particle dispersion prior to introducing the monomer, or (ii) to the monomer before it is combined with the particles, or both. Given the limited number of possibilities for different sequences of addition of the surfactant, it is the Examiner's position that this aspect is still anticipated or, at the very least, rendered obvious. Moreover, were Applicant to argue that the more appropriate rejection was under 35 U.S.C. 103(a), an idea that the Examiner does not acquiesce to, the method claims would still not be allowable because the realization of a product with a narrow particle size distribution is predicted in the prior art.

C.2. Paragraph [0054] of the Kuramoto et al. reference

A translation of paragraph [0054] of the Kuramoto et al. reference follows below:

[0054] (b) In the polymerization process, a radical polymerization reaction of radical-polymerizable unsaturated groups in a first silicone compound is carried out during the above-mentioned condensation process and/or after the condensation process. In other words, the process is a process for radical polymerization of intermediate product particles obtained by the hydrolysis and condensation of the first silicone compound and a second silicone compound which is used as occasion demands, and an organic polymer framework is formed by the radical polymerization reaction of the radical polymerizable unsaturated groups. The above-mentioned polymerization process may be carried out in the presence of a surfactant. The surfactant is not specially limited, and specifically, there can be cited, for instance, anionic surfactants,

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cationic surfactants, nonionic surfactants, amphoteric surfactants, high molecule surfactants, and polymerizable surfactants having at least one polymerizable carbon-carbon unsaturated bond in its molecule. These may be used alone or the combined use of at least two kinds.

C.3. There is no disclosure in Kuramoto et al. that an emulsified monomer is polymerized

Paragraph [0054] above discloses that a radical-polymerizable unsaturated group in the first silicon compound is radical-polymerized, and that the polymerization may be carried out in the presence of a surfactant.

Therefore, the Kuramoto et al. reference discloses that the polymerization of the first silicone compound may be carried out in the presence of a surfactant. This means that polysiloxane is prepared by polymerizing the first silicone compound in the presence of a surfactant.

In contrast, according to the present invention, the polymerizable monomer, which is absorbed into particles having a polysiloxane framework, is emulsified.

However, the Kuramoto et al. reference does not disclose that the polymerizable monomer itself is previously emulsified, and that the polymerizable monomer being absorbed into particles having a polysiloxane framework is polymerized.

Accordingly, there is no motivation in the Kuramoto et al. reference to arrive at the present invention.

C.4. Polymerization can be carried out in the absence of a surfactant

The Examiner has asserted that an emulsification is necessary for absorption in the aqueous medium because the vinyl monomer is not added to an aqueous dispersion of the polysiloxane. (Please see page 4 of the Office Action of

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March 17, 2008). However, the Examiner's assertion is not correct.

As is clear from Comparative Experiment 1 of the Rule 132 Declaration submitted with the Amendment and Remarks of June 17, 2008, polymerization of the monomer can be carried out in the absence of a surfactant.

Therefore, it is respectfully requested that the Examiner's assertion be withdrawn.

C.5. Prior treatment with a surfactant leads to a particle having a greatly increased particle diameter

In the Office Action of January 5, 2009, as indicated above, the Examiner states that:

In the Examiner's estimation, the skilled artisan, upon reading paragraph [0054] would appreciate that the surfactant can be added to (i) the particle dispersion prior to introducing the monomer, or (ii) to the monomer before it is combined with the particles, or both. Given the limited number of possibilities for different sequences of addition of the surfactant, it is the Examiner's position that this aspect is still anticipated or, at the very least, rendered obvious. Moreover, were Applicant to argue that the more appropriate rejection was under 35 U.S.C. 103(a), an idea that the Examiner does not acquiesce to, the method claims would still not be allowable because the realization of a product with a narrow particle size distribution is predicted in the prior art.

What is important in the present invention is that a monomer is previously treated with a surfactant. Since the monomer is previously treated with a surfactant, resulting particles have a greatly increased particle diameter.

However, the Kuramoto et al. reference does not disclose or suggest that the polymerizable monomer being previously emulsified provides particles having a greatly increased particle diameter.

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Since the present invention exhibits the above excellent physical properties unexpected from the Kuramoto et al. reference based on the constituents not disclosed in the Kuramoto et al. reference, the present invention could not have been expected from the Kuramoto et al. reference by a person skilled in the art.

Accordingly, it is respectfully requested that this rejection be withdrawn.

D. Housekeeping matters

D.1. Period For Reply

This Amendment and Remarks is being filed in response to the Final Rejection of February 10, 2009. February 10, 2009 plus three months was May 10, 2009. May 10, 2009 plus one month is June 10, 2009. This paper is being filed on or before Wednesday, June 10, 2009 along with an extension of time for one month.

D.2. Status

The Office Action of February 10, 2009 was made final.

D.3. Disposition Of Claims

Claim 6 is pending.

D.4. Application Papers

This case includes no drawings.

D.5. Priority under 35 U.S.C. §§ 119 and 120

As to foreign priority, acknowledgment of the claim for foreign priority was made in the Office Action dated June 22, 2007. This is appreciated.

Further as to foreign priority, acknowledgment of the

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receipt of the priority document was made in the Office Action dated June 22, 2007. This is appreciated.

As to domestic priority, this case does not claim domestic priority.

D.6. Attachments

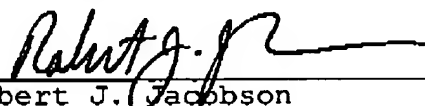
Applicant has filed three PTO-1449 forms in this case (a first with the filing of this case on September 12, 2005, a second on August 18, 2007, and a third on December 6, 2007). All three PTO-1449 forms have been initialed, signed and returned. Such is very much appreciated.

E. Conclusion

Applicant respectfully submits that the present application is now in condition for allowance. The Examiner is respectfully invited to make contact with the undersigned by telephone if such would advance prosecution of this case.

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